

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

JOEY SONTZ

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Plaintiff,

v.

NATIONAL RAILROAD PASSENGER
CORPORATION (AMTRAK)

Serve:

National Railroad Passenger
Corporation (Amtrak)
60 Massachusetts Avenue
Washington, D.C. 20002

Defendant.

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Case No. 1:22-cv-361 (MAD/CFH)

COMPLAINT AND REQUEST FOR JURY TRIAL

Plaintiff, Joey Sontz, by and through counsel, Amber L. Wright and Powers & Santola, L.L.P., sues National Railroad Passenger Corporation (Amtrak), and as causes of action states as follows:

1. Plaintiff, Joey Sontz, is a resident of Albany County, State of New York.
2. Defendant, National Railroad Passenger Corporation (AMTRAK), is an operating railroad, with its principal place of business in Washington, D.C., and is doing substantial business within the jurisdiction of this Court as an interstate common carrier of passengers and freight within the jurisdiction of the Court.
3. The Court has original federal question subject matter jurisdiction in this case pursuant to 28 U.S.C. § 133 and the Federal Employers Liability Act, 45 U.S.C. § 51, et seq.

4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(2) inasmuch as a substantial part of the events or omissions giving rise to this claim occurred in this venue, and 28 U.S.C. § 1391(b)(2) inasmuch as Defendant's principal place of business is in Washington, D.C., and it is doing business throughout the eastern states, including New York, and it engages in interstate commerce; all trackage, cars, equipment and premises involved were under the control of Defendant.
5. Plaintiff's action arises under the Acts of Congress of April 22, 1908, 35 Stat. Chapter 149, with amendments thereto, commonly known as the Federal Employers Liability Act (45 U.S.C. § 51-60 ("FELA")).
6. At all times herein mentioned, the Plaintiff and Defendant were engaged in interstate commerce and all trackage, cars, equipment, and premises involved were under the control of the Defendant.
7. On or about April 20, 2019, the Plaintiff, Joey Sontz, sustained severe injuries while in the employ of the Defendant as an Assistant Conductor. On that date, the Plaintiff, in the course of his duties, was straddled over some rails and was bent over struggling with an abnormally short air hose. The unreasonably short air hose made the joining of the hoses extremely difficult and dangerous, putting the Plaintiff at risk for injury. The Plaintiff felt pain in his low back as he was struggling with the hose, however, he continued with his work. Later that same day, the pain started to increase and radiated down from his back to his left leg.

**COUNT I – NEGLIGENCE UNDER THE FEDERAL
EMPLOYERS LIABILITY ACT**

8. Defendant owed to Plaintiff a non-delegable duty to provide a reasonably safe place in which to work.

9. The aforesaid injury was caused by the negligence of Defendant, its agents, and employees in the premises in that:
 - a. It failed to use reasonable care to furnish Plaintiff with a reasonably safe place in which to work;
 - b. It failed to properly inspect the equipment with which the Plaintiff was required to work;
 - c. It failed to warn the Plaintiff of the abnormally short air hose that he was required to work with during the course of his duties;
 - d. It failed to provide the Plaintiff with the proper tools and equipment to perform his duties;
 - e. It was otherwise careless, reckless, and negligent.
10. As a result of the negligence of the Defendant as hereinabove set forth, the Plaintiff was seriously and permanently injured. The Plaintiff's injuries include injuries to his back and left leg, some, or all of which may be permanent.
11. As a further result of the negligence of the Defendant as herein above set forth, the Plaintiff has in the past and will in the future incur substantial medical and other expense in an effort to cure and rehabilitate himself from these injuries.
12. Prior to his injuries, the Plaintiff was a strong able-bodied man, is presently fifty-five years of age, was earning between Sixty Thousand Dollars (\$60,000.00) and Seventy Thousand Dollars (\$70,000.00) per year, but by reason of his injuries, he has lost considerable time from his regular occupation; he has lost wages; he has incurred and will incur in the future, medical expense for treatment of his injuries, and has been precluded from performing many of his usual activities as a result of the injuries sustained . Further, the Plaintiff has

been unable to return to his position with the Defendant due to his extensive injury resulting from the April 20, 2019 injury.

WHEREFORE, Plaintiff, Joey Sontz, demands judgment against Defendant, National Railroad Passenger Corporation (Amtrak), in an amount to be determined by the Jury, together with interest and costs.

COUNT II

(Negligence Per Se, Federal Safety Appliance Act)

13. Plaintiff adopts and incorporates by reference all the facts and allegations contained above.
14. The air hose that was involved in the Plaintiff's injury is a part of the railroad car's braking system and, as such, it is a safety appliance under the Federal Safety Appliance Act. 49 U.S.C. § 20301 et. seq.
15. Plaintiff's injuries are a result of the fact that the air hose in question was so short as to render it unsafe and improper for Plaintiff to utilize for the task in question.
16. The condition of the air hose in question was in violation of Federal Safety Appliance Act. 49 U.S.C. § 20301 et. seq., a law enacted for the safety of railroad workers. The Defendant is strictly liable to Plaintiff because of this violation.
17. Plaintiff is currently unaware of other federal safety laws and/or regulations that the Defendant and/or its agents may have violated but he reserves the right to rely on other safety law/regulation violations shown during discovery.
18. As a result of Defendant's violation of the above-described Acts, the Plaintiff was seriously and permanently injured. The Plaintiff's injuries include injuries to his back and left leg, some, or all of which may be permanent.

19. As a further result of the negligence of the Defendant as herein above set forth, the Plaintiff has in the past and will in the future incur substantial medical and other expense in an effort to cure and rehabilitate himself from these injuries.
20. Prior to his injuries, the Plaintiff was a strong able-bodied man, is presently fifty-five years of age, was earning between Sixty Thousand Dollars (\$60,000.00) and Seventy Thousand Dollars (\$70,000.00) per year, but by reason of his injuries, he has lost considerable time from his regular occupation; he has lost wages; he has incurred and will incur in the future, medical expense for treatment of his injuries, and has been precluded from performing many of his usual activities as a result of the injuries sustained . Further, the Plaintiff has been unable to return to his position with the Defendant due to his extensive injury resulting from the April 20, 2019 injury.

WHEREFORE, Plaintiff, Joey Sontz, demands judgment against Defendant, National Railroad Passenger Corporation (Amtrak), in an amount to be determined by the Jury, together with interest and costs.

Respectfully submitted,



Amber L. Wright, Esquire
USDCNDNY Bar Roll Number #520017
Powers & Santola, L.L.P.
100 Great Oaks Boulevard, Suite 123
Albany, NY 12203
Phone: (518) 465-5995
Fax: (518) 426-4012
awright@powers-santola.com
Counsel for Plaintiff

TO BE ADMITTED PRO HAC VICE
P. MATTHEW DARBY, ESQUIRE
Darby Law Group, L.L.C.
201 International Circle, Suite 230
Hunt Valley, MD 21030
Phone: (833) 601-7245
Fax: (667) 770-6660
matt@darby-lawgroup.com

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Case No. _____

REQUEST FOR JURY TRIAL

Plaintiff, Joey Sontz, by and through undersigned counsel, requests a Jury Trial on the
issues presented herein.

Amber L. Wright, Esquire
USDCNDNY Bar Roll # 520017
Powers & Santola, L.L.P.
100 Great Oaks Boulevard
Suite 123
Albany, NY 12203
Phone: (518) 465-5995
Fax: (518) 426-4012
awright@powers-santola.com
Counsel for Plaintiff